

Notice of Allowability

Application No.

10/784,663

Applicant(s)

VILCAUSKAS ET AL.

Examiner

Luke S. Wassum

Art Unit

2167

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment filed 8 November 2007.
2. ☒ The allowed claim(s) is/are 20-24, 26-34 and 36-41.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).


* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date See Continuation Sheet
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____


Luke S. Wassum
Primary Examiner
Art Unit 2167

Continuation of Attachment(s) 3. Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date: 20071116;20070831;20070830.

DETAILED ACTION

Response to Amendment

1. The Applicants' amendment, filed 8 November 2007, has been received, entered into the record, and considered.

2. As a result of the amendment, claims 20, 30 and 40 have been amended. Claims 1-19, 25 and 35 have been previously canceled. Claims 20-24, 26-34 and 36-41 are now pending in the application.

Priority

3. The Applicants' claim to domestic priority under 35 U.S.C. § 120 as a divisional application based upon application 09/866,425, filed 24 May 2001, which claims priority under 35 U.S.C. § 119(e), to provisional application 60/207,698, filed 26 May 2000, is acknowledged. Since the subject matter of the parent provisional application encompasses that of the instant application and claims, a priority date of 26 May 2000 is hereby established.

The Invention

4. The Applicants' specification discloses a method of presenting advertisements in a computer system through the use of popunder windows. Alternative disclosed embodiments are implemented in other media, such as a PDA, telephone and television.

Information Disclosure Statement

5. The Applicants' Information Disclosure Statements, filed 16 November, 30 and 31 August 2007, have been received and entered into the record. However, since the IDSs do not fully comply with the provisions of MPEP § 609, not all of the references cited therein have been considered by the examiner.

Regarding the IDS filed 30 August 2007, Korean patent KR 97-78058 was not considered, since not even an English language abstract was submitted, only the native Korean language patent; there was essentially nothing to consider. The Georgia document was not considered, because only the first page of the article was submitted.

See attached forms PTO-1449.

Claim Objections

6. In view of the Applicants' amendment to claim 40, the pending claim objection is withdrawn.

Claim Rejections - 35 USC § 101

7. In view of the disclosure in the Applicants' specification on page 7, lines 30-32, the term 'media' as used in the claims is interpreted as being limited to hardware devices, such that the claims clearly fall within a statutory class of invention in accordance with the terms of 35 U.S.C. § 101.

EXAMINER'S AMENDMENT

8. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Beth Nichols on 30 January 2008.

The application has been amended as follows:

In claim 36, please change

"The method of claim 35"

to

-- The method of claim 30 --.

Allowable Subject Matter

9. Claims 20-24, 26-34 and 36-41 are allowed.
10. The following is an examiner's statement of reasons for allowance:

The present invention is system and method for Internet advertising, wherein a first browser is maintained within a foreground window, a second browser is opened

within a background window, and advertisement is loaded into the second browser, and said background window is moved to the foreground upon detection of a user-initiated action by an event handler (alternately a post-session procedure or post-session instructions).

The closest prior art of record, **Werkhoven** (WIPO Publication WO/1999/59097) teaches a system for providing push delivery of Internet advertisements, wherein a popup window is opened in the background, content is loaded into the popup window, and upon the completion of content loading, the popup window is moved to the foreground (see page 3, lines 7-10; see also drawing Figure 1).

However, **Werkhoven** fails to anticipate or render obvious the recited feature of an event handler/post-session procedure/post-session instructions which is/are free from instructions capable of automatically, without user interaction, causing said second browser in said background window to replace said first browser as said foreground window such that said first browser is then maintained in a background window at least partially behind said second browser, during a time interval beginning incrementally before said advertisement has completely finished loading in said second browser and ending at a time incrementally after a user action navigates said first

browser to a different web site than that loaded in said first browser when said event handler received said advertisement, as in independent claims 20, 30 and 40.

This feature, together with the other limitations of the independent claims are novel and non-obvious over the prior art of record. The dependent claims 21-24, 26-29, 31-34, 36-39 and 41, being definite, enabled by the specification, and further limiting to the independent claim, are also allowable.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Luke S. Wassum whose telephone number is 571-272-4119. The examiner can normally be reached on Monday-Friday 8:30-5:30, alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John R. Cottingham can be reached on 571-272-7079. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

In addition, INFORMAL or DRAFT communications may be faxed directly to the examiner at 571-273-4119, or via email at luke.wassum@uspto.gov, **with a previous written authorization in accordance with the provisions of MPEP § 502.03. Such communications must be clearly marked as INFORMAL, DRAFT or UNOFFICIAL.**

Customer Service for Tech Center 2100 can be reached during regular business hours at (571) 272-2100, or fax (571) 273-2100.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Luke S. Wassum
Primary Examiner
Art Unit 2167

lsw
30 January 2008